

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #11	CCRB Case #: 201901445	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/16/2019 5:24 PM	Location of Incident: Outside the 49th Precinct stationhouse	Precinct: 49	18 Mo. SOL 8/16/2020	EO SOL 4/2/2021	
Date/Time CV Reported Sun, 02/17/2019 1:18 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 02/17/2019 1:18 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Kevin Finegan	00000	923434	049 PCT
2. POM Ryan Winkler	16412	940862	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Hines	23461	964060	049 PCT
2. POM Oliver Jimenez	25532	964077	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Kevin Finegan	Abuse: Lieutenant Kevin Finegan threatened to arrest § 87(2)(b)	
B.POM Ryan Winkler	Abuse: Police Officer Ryan Winkler threatened to arrest § 87(2)(b)	

Case Summary

On February 17, 2019, § 87(2)(b) called the CCRB to file this complaint via the Call Processing System on behalf of himself and § 87(2)(b). Duplicates of this complaint were subsequently filed in a variety of manners by both named and anonymous individuals.

On February 20, 2019, due to videos of the incident that § 87(2)(b) and § 87(2)(b) uploaded to YouTube receiving tens of thousands of views, this case was deemed sensitive.

On February 16, 2019, at approximately 5:24 p.m., § 87(2)(b) and § 87(2)(b) walked outside the 49th Precinct stationhouse in the Bronx, recording footage of the building exterior and its surroundings. Lt. Kevin Finegan and PO Ryan Winkler, both of whom were assigned to the 49th Precinct at the time of the incident, and other officers exited the building and spoke with § 87(2)(b) and § 87(2)(b). Lt. Finegan threatened to arrest § 87(2)(b) (**Allegation A -Abuse of Authority: Threat of arrest, § 87(2)(g)**), and PO Winkler threatened to arrest § 87(2)(b) (**Allegation B -Abuse of Authority: Threat of arrest, § 87(2)(g)**).

Neither § 87(2)(b) nor § 87(2)(b) was arrested or issued any summonses as a result of this incident.

Video footage obtained in this case was recorded by § 87(2)(b) and § 87(2)(b) and uploaded to their YouTube accounts under the names § 87(2)(b) and § 87(2)(b), respectively. Screen captures of this footage were subsequently recorded by the CCRB. The NYPD's Legal Bureau provided to the CCRB footage of the incident that PO Oliver Jimenez of the 49th Precinct recorded on his Body-Worn Camera (BWC).

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Kevin Finegan threatened to arrest § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Ryan Winkler threatened to arrest § 87(2)(b)

It is undisputed that Lt. Finegan threatened to arrest § 87(2)(b) and that PO Winkler threatened to arrest § 87(2)(b).

§ 87(2)(b) stated (Board Review 01) that he walked on the sidewalk outside the 49th Precinct stationhouse. He remained on the sidewalk for the entirety of his interaction with Lt. Finegan until he threatened to arrest him. § 87(2)(b) later walked across the street from the stationhouse and had not done so prior to the threats of arrest.

After § 87(2)(b) missed one scheduled appointment to provide a sworn statement to the CCRB and numerous additional attempts were made to schedule one, he stated to the CCRB that he wished to have the CCRB “dispose [his] application,” and no sworn statement was subsequently obtained from him.

Lt. Finegan stated (Board Review 02) that he threatened to arrest § 87(2)(b) because of his understanding, at that time, that civilians could not record footage on the sidewalk directly outside the stationhouse, because he thought that such a recording could constitute a “safety hazard” for officers operating their privately-owned vehicles in the area, and for no other reason. Lt. Finegan did not hear any other officer, including PO Winkler, threaten to arrest either § 87(2)(b) or § 87(2)(b). Lt. Finegan learned after this incident that civilians were free to record footage on this public sidewalk.

PO Winkler stated (Board Review 03) that while he reiterated the same threat of arrest to § 87(2)(b) that Lt. Finegan had made, this was a result of his “following the lieutenant’s lead.”

After this, because § 87(2)(b) and § 87(2)(b) moved into the roadway of Eastchester Avenue, where multiple vehicles in both of its lanes of traffic stopped as a result of what PO Winkler thought was their being “in the way” of these vehicles, PO Winkler informed § 87(2)(b) and § 87(2)(b) that they blocked vehicular traffic in the roadway and requested that they exit it. PO Winkler told § 87(2)(b) that he would be arrested if he continued to block vehicular traffic. PO Winkler did not tell § 87(2)(b) or § 87(2)(b) that they could be arrested for any other reason that he could recall, and he did not recall seeing § 87(2)(b) or § 87(2)(b) commit any other offense for which they could have been arrested.

The Narrative Report containing portions of video footage of this incident (Board Review 04) depicts the circumstances surrounding these allegations. Prior to PO Winkler threatening to arrest § 87(2)(b) § 87(2)(b) moves backwards and away from the officers such that the sidewalk’s curb and pedestrian crosswalk “zebra lines” appear at the bottom of the frame. The 00m36s mark of the BWC footage PO Jimenez recorded (Board Review 05) depicts an alternate view of § 87(2)(b) moving into the pedestrian crosswalk, where the pedestrian traffic signal shows that he has the right-of-way. § 87(2)(b) stands in the crosswalk for approximately 15 seconds, does not cross the street, and then walks perpendicularly to the crosswalk into the roadway near a vehicle that begins to move and then stops when § 87(2)(b) walks next to it.

Individuals have a right to lawfully observe and/or record police activity in public places such as streets, sidewalks, and parks. Officers are not to threaten, intimidate, or discourage these individuals from recording officers’ activities. Individuals may not record police activity within Department facilities. NYPD Patrol Guide, Procedure 203-29 (Board Review 06).

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he obstructs vehicular or pedestrian traffic. NYS Penal Law, Section 240.20 (5) (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 08).
- § 87(2)(b) has been party to two CCRB complaints, § 87(2)(b)
- Lt. Finegan has been a member-of-service for twenty years and has been a subject in five CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)

- PO Winkler has been a member-of-service for thirteen years, and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- On March 1, 2019, this case was sent to mediation, and on June 14, 2019, the case was returned to investigation § 87(2)(g)
- On July 23, 2019, a Notice of Claim inquiry was sent to the New York City Office of the Comptroller, and the results will be added to the case file upon receipt (Board Review 10).

- § 87(2)(b)

- § 87(2)(b)

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date